## II. Remarks

With regard to the IDS filed on November 25, 2005, Applicant has resubmitted copies of the photographs referenced in the IDS. Applicant's records indicate that the photographs where submitted, however, they obviously never made it to the file. In any event, new copies are enclosed and Applicant apologizes for any inconvenience caused by this delay.

The drawings were objected to under 37 CFR 1.83(a) as not showing 1) the carriage slidably attached to the outside of the elongated body and 2) the bearing shoes **15**. Applicant believes both items are shown in the Figures. First, Figure 12, of which a portion is illustrated below, clearly shows bearing shoes **15** as four pad-like structures mounted on each side of the carriage **13**.

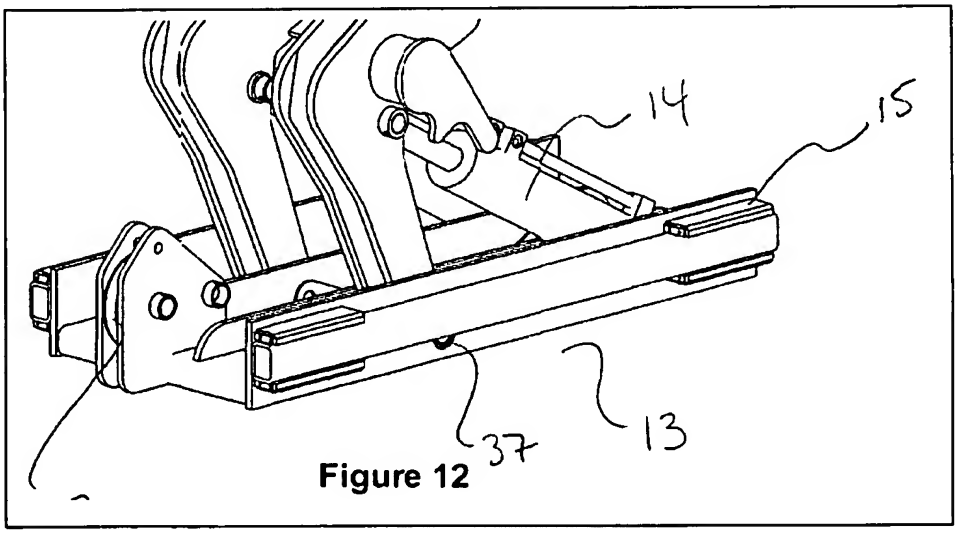

Figure 12

Second, Figure 11, when viewed with Figure 12 in mind, illustrates that the carriage slidably moves along the outside elongated member **11**. As shown below in two excerpts from Figure 11, the elongated member **11** is comprised of two parallel "tracks" that face each other and that have a top and bottom bearing surface to engage the bearing shoes.

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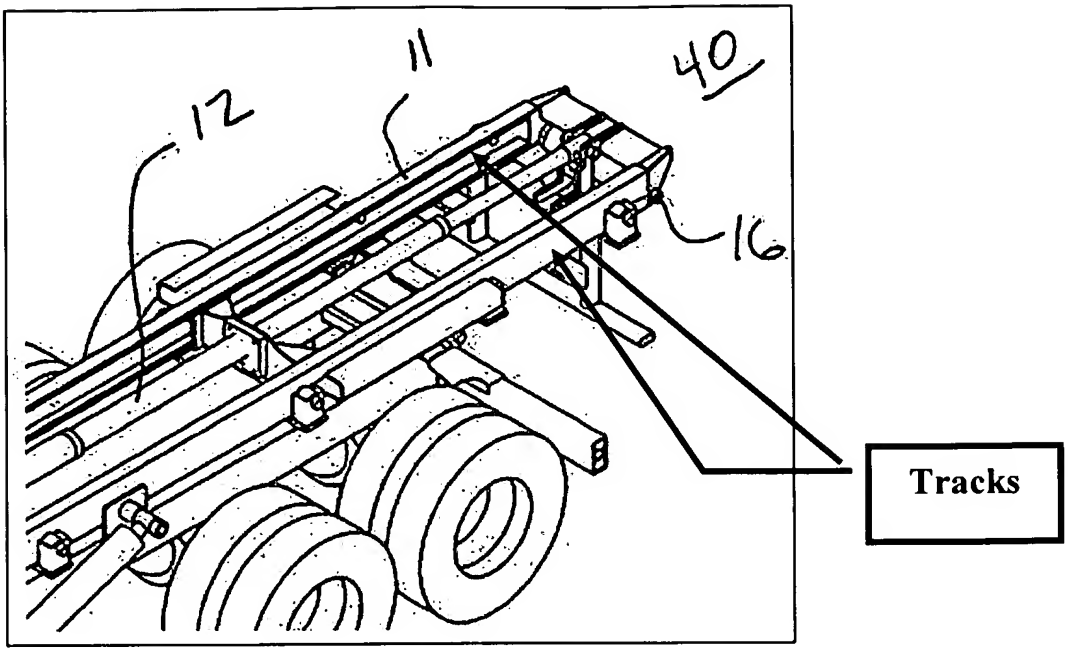
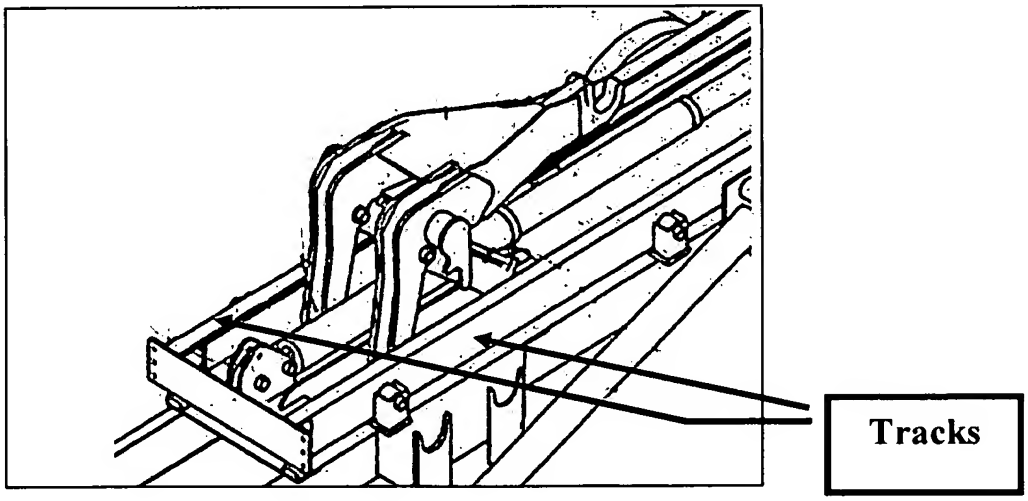



"As mentioned, the carriage is slidably connected to the elongated body and can move along the body from front to rear along a ***track*** using bearing shoes or other friction reducing mechanism, such as rollers."

(Originally filed application at page 6, line 17)(emphasis added).




The two parallel sides of the carriage, as shown above in the excerpt from Figure 12, are positioned such that they slidably engage the two "tracks" as shown above, thus allowing the carriage to slide from the rear to the front along the outside of the elongated member. Indeed, as

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shown above, the elongated member does not, and cannot, "enclose" any part of the carriage because the elongated member is comprised of essentially two open tracks facing each other. Thus, it is impossible for the elongated member to "enclose" the carriage. Accordingly, Applicant respectfully requests that the objection to the drawings should be withdrawn.

Claims 1-2 were rejected under 35 U.S.C. 103(a) as being obvious over Cooley in combination with both Nijenhuis and Raisio. In light of the above amendment to the claims and the remarks set forth below, Applicant submits that this rejection is now moot and therefore should be withdrawn.

Applicant respectfully disagrees that Cooley discloses an "elongated body" as claimed in Applicant's application. Platform **12** in Cooley does ***not*** span the entire length of the vehicle body. As shown in Fig. 1 of Cooley, platform **12** is only a little over 60% of the vehicle trailer length, with non-tilting platform **11** making up the difference. Applicant's claimed invention clearly requires that the "elongated body" has a "length defined by a front located adjacent to a transport vehicle cab and a rear located opposite the front." Thus, Applicant's elongated body is the entire length of the rear trailer behind a cab of the vehicle. Moreover, the front of platform **12** of Cooley is ***not*** adjacent to the vehicle cab, instead it is adjacent to the back end of platform **11**.

Cooley also does ***not*** disclose Applicant's claimed "carriage." The push-pull device **31** shown in Cooley is an articulated, spring biased engagement member designed to directly connect ***only*** to the underside of a container. It is not designed to engage any other type of container. The articulated device comprises a torsion spring **40** that biases device **31** upward and out of the plane defined by platform **12**. This is completely contrary to applicant's newly amended claims, which requires that ***the carriage is adapted to remain in the plane defined by***

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***the elongated member***. This angling upward of device **31** of Cooley at approximately 15° off the plane of platform **12** is shown clearly in Figure 5. Further, the articulation required by Cooley is necessary in order that the cut away part of housing **32** can extend upward and lock on to the series of bars **23** that are located only on the underside surface of the specially designed container (see Figs. 1 and 5).

Device **31** is also not a "carriage" because it cannot move "from the rear of the elongated body to the front of the elongated body" as required by the claims of Applicant's invention. Indeed, as shown in Fig. 3, it is impossible for device **31** to travel more than short distances from the rear end of platform **12** because cylinder **41**, which pushes and pulls device **31**, has its non-moving end secured at a point rearward of the raising and lowering platform cylinders 14 and **16** and is connected to platform 12 at a point less than 50% of the length of the trailer. Indeed, this is another significant difference has its non-moving end secured at a point equivalent to that a cylinders **16**, which is located at a point only approximately 60% of the length of the trailer. Indeed, this is another significant difference compared to Applicant's claimed invention, which requires that "a multi-stage central hydraulic cylinder having a ***fixed end*** and a moving end, where the ***fixed end is attached to the rear of the elongated body*** and the moving end is attached to the carriage" Clearly, this limitation is not present in Cooley since cylinder **41** is fixed at the ***front*** of platform **12**. Moreover, because device **31** cannot travel the length of the trailer it must move in an incremental fashion, as described in column 3, lines 16-47, where the device connects to a first front most container bar **23** and pulls the container forward a short distance, then brake **61** is engaged to hold the container from sliding off while the device **31** is disconnected and then moved towards the rear to connect to a second container bar **23** located

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underneath and further away from the front of the container. This incremental step wise procedure is repeated several times until the container is finally positioned on the trailer.

Another distinguishing feature is that Applicant's "carriage," as now set forth in the amended claims, cannot directly connect to the container, it must have a separate "engaging means" to connect to the container. Again, this limitation is not met by the device in Cooley because connector **33** is an integral part of device **31**. Since Applicant's carriage does not directly connect to a container it can be used with virtually any container design. Also, because the "carriage" of Applicant's invention must travel the length of the elongated member, which necessarily is defined as the entire distance of the trailer, there is no need for the structure taught in Cooley that performs the repetitive incremental grab and release procedure. Finally, Applicant's "carriage" is "substantially rectangular in shape." This is in direct contrast to the shape of the Cooley device which is necessarily triangular and having only two points of contact. The Cooley device must be triangular in order to allow the cut away portion (i.e. the connector **33**) of device **31** to articulate upward so it can engage the bars on the underside of the specifically designed container.

Because Cooley is clearly missing key elements of Applicant's invention, Applicant respectfully submits that for these reasons alone the combination of references cannot possibly support a *prima facie* of obviousness.

The Examiner also alleges that it would have been obvious to modify the Cooley device to include the gripping elements disclosed in Nijenhuis. Applicant respectfully disagrees with this position because such a conclusion ignores the fact that Cooley device **31** is specifically designed to engage only one type of container, i.e. those with a series of container bars **23** located on the underside of the container. This is evidenced by the requirement that the Cooley

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device must be spring biased upwards out of the plane defined by the trailer frame. This articulation allows the device to reach up and grabbed the series of container bars. In order to combine the gripping elements of Nijenhuis with the device of Cooley would require elimination of the articulation feature, which would prevent the device from operating as described. Indeed, there is absolutely no teaching or suggestion in either Cooley or Nijenhuis that would suggest that the articulation feature of Cooley could be eliminated. Moreover, it would be impossible to add a hook and jib engaging means to device **31** of Cooley without eliminating the torsion spring and the triangular two-point contact with the frame design. Accordingly, Applicant submits that it is improper to combine Nijenhuis with Cooley.

To further support the rejection a third reference, Raisio, was needed for combination with Cooley and Nijenhuis. Applicant submits that even with this third reference a *prima facie* case of obviousness has not been established. As was evident with the combination of Nijenhuis and Cooley, it is simply impossible for the cylinders disclosed in Raisio to be added to device **31** of Cooley without completely eliminating all the features of Cooley that allows it to function. Moreover, the cylinders in Raisio are attached directly to stationary frame **80** of the trailer. There is absolutely no teaching or suggestion that these cylinders could be mounted in any other position, let alone to a moving carriage as required in Applicant's invention. Indeed, device **31** of Cooley clearly could not support a set of cylinders as disclosed in Raisio, especially with the required articulation upward and the two-point contact with the frame of the Cooley device. Accordingly, the rejection of claims 1-2 should be withdrawn.

Claims 3-8 were rejected as being obvious over Cooley in combination with Nijenhuis and Raisio, and with yet a fourth reference, Marmur. In responding to this rejection, Applicant incorporates and relies on the arguments stated above to support the position that a *prima facie*

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case of obviousness has not been established. Additionally, the sheave in Marmur is anchored and travels in a radial arc that is clearly outside the plane defined by the elongated body. The Marmur sheave is also attached to upper frame **16** where the sheave of claim 3 in the present invention is attached to the carriage that remains in the plane defined by the elongated member.

Applicant further contends that the Examiner has engaged in improper hindsight reconstruction by "hunting and pecking" through the prior art to find individual structural elements without pointing to any teaching or suggestion that those elements from one reference could be combined with elements from another reference to arrive at Applicants invention. There must be a teaching or suggestion to allow elements from one reference to be combined with another and this has not been established. For these reasons, Applicant respectfully submits that the combination of references cannot support a *prima facie* case of obviousness under 35 USC § 103 and therefore the rejection should be withdrawn.

Applicant now believes pending claims 1-8 are in a condition for allowance and respectfully request an early indication of same. If for any reason the application is not in condition for allowance and a telephonic conference would be helpful, please do not hesitate to contact the undersigned directly at 312/913-2143.

Respectfully submitted,

Date: 3/15/06

By: _____

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